S T A T E O F N E W Y O R K

579

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. PRETLOW -- Multi-Sponsored by -- M. of A. SWEENEY -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the family court act, in relation to orders of protection

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 530.12 of the criminal procedure law is amended by adding five new paragraphs (c-1), (c-2), (c-3), (c-4) and (c-5) to read as follows:

(C-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(C-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(C-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(C-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(C-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 2. Subdivision 5 of section 530.12 of the criminal procedure law is amended by adding five new paragraphs (b-1), (b-2), (b-3), (b-4) and (b-5) to read as follows:

(B-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(B-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(B-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(B-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(B-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 3. Subdivision (g) of section 446 of the family court act, as amended by chapter 948 of the laws of 1984, is amended and five new subdivisions (f-1), (f-2), (f-3), (f-4) and (f-5) are added to read as follows:

(F-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(F-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE

RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(F-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(F-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(F-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

(g) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order[.];

S 3-a. Subdivisions (g), (h) and (i) of section 842 of the family court act, subdivisions (g) and (h) as amended by chapter 222 of the laws of 1994, subdivision (i) as added by chapter 253 of the laws of 2006, are amended to read as follows:

(g) to require the respondent to participate in a batterer's education program designed to help end violent behavior, which may include referral to drug and alcohol counselling, and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the petitioner, the state or any political subdivision thereof; [and]

(h) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order[.];

(i) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household[.];

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law[.];

S 4. Subdivisions (h) and (i) of section 656 of the family court act, subdivision (h) as amended by chapter 948 of the laws of 1984 and subdivision (i) as added by chapter 253 of the laws of 2006, are amended and five new subdivisions (g-1), (g-2), (g-3), (g-4) and (g-5) are added to read as follows:

(G-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE

RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(G-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(G-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(G-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(G-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

(h) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced[.];

(i) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household[.];

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law[.];

S 5. Section 842 of the family court act is amended by adding five new subdivisions (g-1), (g-2), (g-3), (g-4) and (g-5) to read as follows:

(G-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(G-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(G-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID

DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(G-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(G-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

S 6. Paragraphs (f) and (g) of subdivision 1 of section 1056 of the family court act, paragraph (f) as amended by chapter 220 of the laws of 1989, paragraph (g) as added by chapter 253 of the laws of 2006, subparagraph 1 of paragraph (g) as amended by chapter 532 of the laws of 2008, are amended and five new paragraphs (e-1), (e-2), (e-3), (e-4) and (e-5) are added to read as follows:

(E-1) TO MAKE OR TO CONTINUE TO MAKE RENT OR MORTGAGE PAYMENTS ON A RESIDENCE OCCUPIED BY THE PERSON WHO IS PROTECTED BY SUCH ORDER IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER OR OTHER DEPENDENT HOUSEHOLD MEMBERS PROVIDED THAT THIS ISSUE HAS NOT BEEN RESOLVED OR IS NOT BEING LITIGATED BETWEEN THE PARTIES IN ANOTHER ACTION;

(E-2) TO PAY THE PETITIONER'S RENT OR FEES FOR HOUSING SERVICES AT A RESIDENCE OTHER THAN THE ONE PREVIOUSLY SHARED BY THE PARTIES IF THE RESPONDENT IS FOUND TO HAVE A DUTY TO SUPPORT THE PETITIONER AND THE PETITIONER REQUIRES ALTERNATIVE HOUSING DUE TO THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER;

(E-3) TO PAY MONETARY COMPENSATION FOR LOSSES ARISING FROM THE INCIDENT OR INCIDENTS FORMING THE BASIS FOR THE ISSUANCE OF THE ORDER; SUCH ORDER MAY REQUIRE THE RESPONDENT TO PAY THE PETITIONER DIRECTLY, TO REIMBURSE THE CRIME VICTIMS BOARD FOR ANY AND ALL COMPENSATION PAID DIRECTLY TO OR ON BEHALF OF THE PETITIONER, AND MAY REQUIRE THAT THE RESPONDENT REIMBURSE ANY PARTIES THAT MAY HAVE COMPENSATED THE PETITIONER, AS THE COURT MAY DETERMINE. COMPENSATORY LOSSES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, LOSS OF EARNINGS OR OTHER SUPPORT, OUT-OF-POCKET LOSSES FOR INJURIES SUSTAINED, COST OF REPAIR OR REPLACEMENT OF REAL OR PERSONAL PROPERTY DAMAGED, DESTROYED OR TAKEN, COST OF COUNSELING FOR THE PETITIONER AND/OR DEPENDENT HOUSEHOLD MEMBER, MOVING OR OTHER TRAVEL EXPENSES, REASONABLE ATTORNEY'S FEES, COURT COSTS, AND COMPENSATION FOR PAIN AND SUFFERING;

(E-4) TO GRANT POSSESSION OF SPECIFIED PERSONAL PROPERTY WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO AUTOMOBILES, CHECKBOOKS, KEYS, DOCUMENTATION OF HEALTH INSURANCE, OTHER IDENTIFICATION DOCUMENTATION AND OTHER PERSONAL EFFECTS;

(E-5) TO PROHIBIT THE RESPONDENT FROM TRANSFERRING, ENCUMBERING OR OTHERWISE DISPOSING OF SPECIFIED PROPERTY MUTUALLY OWNED OR LEASED BY THE PARTIES;

(f) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising

from the incident or incidents forming the basis for the issuance of the order[.];

(g) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the person protected by the order or a minor child residing in such person's household[.];

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law[.];

S 7. The family court act is amended by adding a new section 842-b to read as follows:

S 842-B. ORDER ON CONSENT. THE COURT MAY, PRIOR TO ISSUING AN ORDER OF PROTECTION ON CONSENT OF THE PARTIES WITHOUT A FINDING OF WRONGDOING, IMPOSE AN ORDER ON CONSENT OF SUCH PARTIES WHICH CONTAINS SUCH TERMS AND CONDITIONS AS ARE AUTHORIZED UNDER SECTION EIGHT HUNDRED FORTY-TWO OF THIS PART.

S 8. This act shall take effect on the sixtieth day after it shall have become a law.